REMARKS

Customer Number

The Patent Office received a *Revocation and Power of Attorney* on November 18, 2004 "appoint[ing] the agents and attorneys associated with Customer Number 22830 to prosecution this application." While the mailing address of Customer Number 22830 has been allocated to this application, the actual Customer Number has not. As such, the Applicants have submitted herewith Form PTO-SB-122 to formally allocated Customer Number 22830 to the present application.

Status of the Claims

Claims 23-50 were filed concurrently with the actual filing of present application. Claims 51-54 were added through a *Preliminary Amendment* received by the Patent Office on March 21, 2005. Only claims 51-54 were examined in the office action mailed February 1, 2006. In an amendment received by the Patent Office on February 23, 2006, the Applicants clarified the nature of the claims subject to examination (*i.e.*, claims 23-50 remained present for examination). A terminal disclaimer with respect to U.S. patent application number 10/600,144 was also submitted.

Claims 23-54 remained pending in the present application although the Examiner has noted that only claims 23-51 "are presented for examination." *Office Action*, 2. The Applicants make this reference for the sake of clarity in that the actual text of the *Office Action* reflects that claims 52-54 were, in fact, examined. As such, all claims intended by the Applicants to be presented for examination have, in fact, been examined through the present *Office Action*. Claim 52 has, in the present response, been cancelled.

Information Disclosure Statement

The Examiner notes that the *Information Disclosure Statements* submitted on May 17, 2004 and December 16, 2004 "is being considered." *Office Action*, 2. The Applicants submit, herewith, an additional *Information Disclosure Statement* believed to be in compliance with 37 C.F.R. § 1.97 for consideration by the Examiner.

Objection to the Specification

The Examiner objected to the specification because of an informality at page 2, line 29 concerning the presence of two immediately successive recitations of 'are not.' See *Office Action*, 2. The Applicants have deleted the second recitation that occurred through a typographical error. As such, the Applicants believe the Examiner's objection to have been overcome. The Applicants also note an amendment to correct a misspelling in the specification ('commuications' to 'communications'). No new matter is added through either of these amendments.

35 U.S.C. § 112, ¶ 2 Rejection

The Examiner contended that claim 24's recitation of 'the output data type format' lacked antecedent basis. See *Office Action*, 2. The Applicants have amended claim 24 to recite 'wherein *a format of* the output data type can be changed.' The Applicants believe claim 24 now exhibits proper antecedent basis in that the antecedent for claim 24's 'output data type' claim element is originally found in the body of the 'network connections' claim element in independent claim 23, from which claim 24 directly depends. As such, the Applicants believe the Examiner's rejection to have been overcome.

Double Patenting Rejection

The Examiner contends claims 23, 43, and 46 to be "rejected on the grounds of nonstatutory obviousness-type double patenting" with respect to claims 1, 2, and 7 of U.S. patent number 6,343,313 (the "'313 Patent"). *Office Action*, 3. The '313 Patent is the great-grandparent of the present application via intermediate continuity application numbers 10/600,144 and 09/523,315; the latter application being a divisional of the aforementioned '313 Patent. The Applicants have submitted herewith, a terminal disclaimer in accordance with 37 C.F.R. § 1.321(c). As such, the Examiner's rejection is believed to have been overcome.

35 U.S.C. § 102(e) Rejection

The Examiner contends claims 23-54 "are rejected under 35 U.S.C. 102(e) as being anticipated by Tung et al. US patent number 5,859,979," (hereinafter *Tung*). *Office Action*, 4. The Applicants respectfully traverse the Examiner's rejection as more fully set forth below.

Independent Claim 23

Claim 23 of the present application recites the following:

A conferencing system comprising:
a conference server;
at least one client; and
network connections coupling the conference server and the at least one client, the conference server providing data updates to the at least one client via the network connections, where the data updates are delivered in an output data type based on conferencing system connection or load parameters.

The Examiner refers to *Tung*'s disclosure of a "conference manager [that] can be interpreted as [a] conference server that coordinates connection/communications." *Office Action*, 4. The Applicant respectfully disagrees. The conference manager of *Tung* as cited by the Examiner "coordinates connection and data channel activities for the conference applications. It provides capabilities to centralize and coordinate dial, hang-up, data channel management activities, and application launching. It enables conference applications to establish and tear down connections." *Tung*, col. 19, l. 25-29.

Tung's description of the conference manager, however, is more akin to a simple switch than the presently claimed 'conference server' that is capable of providing, for example, 'data updates.' For example, *Tung* coordinates activities such as dialing, hang-up, and connection establishment/termination. The description of *Tung*, as noted, corresponds more to a mere communications switch, which controls establishment, routing, and operation of a signal path than a server appliance that exhibits the various capabilities set forth in the Applicants' claims. The limiting switching capabilities of *Tung* are further highlighted in that portion of its disclosure that notes "[a] connection is established through the conference manager 544 instead of calling the communication software (i.e., comm. manager 518 via comm. API 510) directly." *Tung*, col. 19, l. 31-33.

The Examiner also suggests that the conference manager of *Tung* discloses "providing data updates to the at least on (sic) client via network connection, where the data updates are delivered in an output data type based on conference system connection or load parameters." *Office Action*, 4. The Applicants, again, respectfully disagree. The Examiner's reference to *Tung* "enable[ing] conferencing application 502 to inform (update) peer of events (e.g. mute on and mute off) and transfer arbitrary size information" does not constitute the Applicants' presently claimed 'data updates' that are 'delivered in an output data type based on conferencing system connection or load parameters.' *Office Action*, 4.

For example, column 15, line 64 to column 16, line 8 of *Tung*, which the Examiner relies upon to support the aforementioned proposition, concerns sending an "APPLAUNCH message . . . to a remote node to launch an application"; in turn, an "APPLAUNCHRESPONSE message is sent by the remote node that was asked to launch an application." This instruction/response exchange is in no way 'based on conferencing system connection or load parameters' as appears in, for example, claim 23. *Tung*, in this context, evidences nothing more than a transmission of an application message followed by an acknowledgment.

Column 26, lines 30-42, which the Examiner also relies upon, fails to teach each and every element of Applicants' presently pending claim 23. This portion of *Tung* discloses nothing more than "establish[ing] channels within the established connection for transmitting and receiving data signals with the remote conferencing system." *Tung*, col. 26, l. 31-33. The establishment of a channel in *Tung* is nothing more than dedicating or allocating part of a pre-established communications link for specific use by two conference participants; there is no exchange of data 'based on conferencing system connection or load parameters.' While there may be an exchange of data over a connection in *Tung*, that exchange is not ***based on*** the particulars of the connection or load parameters as is recited in claim 23 of the present application (*e.g.*, the load of the present connection).

Likewise, column 19, lines 50-52 of *Tung* also fails to disclose each and every element of claim 23. Lines 50-52 disclose only the conference manager "provid[ing] an efficient mechanism to inform applications about events such as 'connection established' and 'connection torn down.'" *Tung*, col. 19, l. 50-52. Informing one or more application of the existence or termination of a connection does not constitute providing the presently claimed data updates in an output data typed 'based on conferencing system connection or load parameters.'

As is noted by the Applicants disclosure, "[t]he presenter client can **dynamically change the format in which it provides data, based on the presenter client computer's capabilities, backlog, local network congestion, and information provided by the server.**" *Specification*, p. 28, l. 16-18 (emphasis added). This exemplary functionality (an embodiment of which is set forth in claim 23 with regard to 'data updates' being 'delivered in an output data type based on conferencing system connection or load parameters') is wholly absent from the disclosure of *Tung*. *Tung* fails to disclose any aspect of basing a data type on a system connection or load parameter as is further exemplified in the Applicant's disclosure, which notes "data can arrive as uncompressed base blocks (raw data) on the stream labeled 'ubase.'" *Specification*, p. 28, l. 18-19. Alternatively and by further example, "based on performance, network bandwidth, etc.," a data stream may be sent as compressed base blocks ('cbase')." *Specification*, p. 28, l. 21-22.

Claims Depending from Claim 23 and Claim Families Related to Independent Claims 33, 43, and 46

Based on the absence of any such functionality in *Tung* and as is set forth in Applicants' claim 23, the Applicants respectfully contend the Examiner's rejection to have been overcome. Each and every claim depending from claim 23 (either directly or via an intermediate dependent claim) is allowable for at least the same reasons. See 35 U.S.C. § 112, ¶ 4. Claims 33, 43, and 46 (and their related dependencies) are also allowable for at least the same reasons as claim 23. For example, claim 33 recites 'changing the format' of output data 'based on changes to the conferencing system parameters'; claim 43 recites 'providing conferencing data' 'in a format based on conferencing system parameters'; and claim 46 recites data delivery 'in an output data type based on conferencing system parameters.'

Independent Claims 51 and 53

The Examiner has rejected claims 51 and 53 (for a system and method, respectively) in asserting that *Tung* discloses providing conferencing data 'based on a determined size of at least a portion of the conferencing data.' The Applicants respectfully disagree in that the portion of *Tung* cited by the Examiner fail to disclose each and every element of these claims.

Column 14, line 64-column 15, line 30 of *Tung* discloses "inform[ing a] peer of events . . . and transfer[ing] arbitrary size information." Providing notice of an event (*e.g.*, mute on or mute off, as referenced by the Examiner) or the transfer of the analogously reference 'size information' does not meet the claimed elements set forth by the Applicant: transferring conference data 'based on a determined size of at least a portion of the conferencing data.'

Column 75, line 65 to column 76, line 31 of *Tung* also fails in this regard. This portion of *Tung* references only preemptive priority-based transmission of data. Priority based transmission of data, in and of itself, does not meet the Applicants' presently claimed transfer of conference data 'based on a determined size of at least a portion of the conferencing data.'

As the Examiner has failed to disclose each and every element of claims 51 and 53, including but not limited to providing conferencing data 'based on a determined size of at least a portion of the conferencing data,' the Applicants respectfully contend the Examiner's rejection to have been overcome.

Independent Claims 52 and 54

The Examiner has rejected claims 52 and 54 for a system and method, respectively. Claim 52 has been cancelled without prejudice, thus the Examiner's rejection is moot.

The Applicants respectfully disagree in that the portion of *Tung* cited by the Examiner fails to disclose, with respect to claim 54, delivery of data in a format based on a 'determined type of compression to be used.' While column 5, line 9 *et seq.* makes generic references to compression and decompression of data, there is no disclosure with respect to delivery of data in a particular format based on a determination of a type of compression to be used in the data transmission. As such, *Tung* fails to disclose each and every element of the Applicants' presently claimed invention and the rejection is overcome.

CONCLUSION

The Applicants have overcome the Examiner's objection to the specification through amendment of the same. The Applicants have also overcome the Examiner's 35 U.S.C. § 112, ¶ 2 rejection through amendment of claim 24. The Examiner's double patenting rejection is overcome through the concurrent submission of the enclosed terminal disclaimer. Finally, the Applicants have overcome the Examiner's 35 U.S.C. § 102(e) rejections through evidencing the failure of the *Tung* reference to disclose each and every limitation of the Applicants' presently claimed invention.

If Examiner has any questions regarding the case, the Examiner is invited to contact Applicants' undersigned representative at the number given below.

Respectfully submitted,
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